



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Microwave Solutions, Inc.

**File:** B-245963

**Date:** February 10, 1992

Edward M. Teyssier for the protester.  
Scott E. Miller, Esq., Department of the Navy, for the agency.  
James Cunningham, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Contracting agency properly excluded from the competitive range a proposal (for telemetry transmitters to enable testing and evaluation of missile performance) which the agency appropriately concluded had no reasonable chance for award because it evidenced non-compliance with solicitation's frequency tolerance requirement for transmitters and failed to demonstrate understanding of other significant technical requirements the correction of which would have required major design revision.

### DECISION

Microwave Solutions, Inc. (MSI) protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. N0429A-91-R-0104, issued by the Naval Air Station, Point Mugu, California, on July 16, 1991, for certain "S-Band Transmitters."

We deny the protest.

The transmitters in question are to be used by the Navy's Pacific Missile Test Center for the transmission of telemetry information from a "Sparrow" air-to-air (or ground-to-air) missile to a remote receiver for test and evaluation purposes. The transmitter must be able to transmit this telemetry information prior to a shipboard or (in-flight) air launch of the missile as well as during the supersonic, high-altitude flight of the missile. The telemetry information must be actually transmitted to the remote receiver at all times to ensure that each missile is properly tested and evaluated.

The RFP required offerors to submit technical proposals on a firm, fixed-price basis for the transmitters to conform with detailed technical requirements covering design, construction, performance, environmental, product life, and quality assurance considerations described in an RFP technical drawing. This drawing, in turn, provided in relevant part that the transmitters were to be in accordance with the Inter-Range Instrumentation Group (IRIG), Standard 106-86. The RFP informed offerors that their technical proposals would be evaluated to determine if they fully addressed and satisfied all requirements of the technical drawing. The RFP required all offerors to submit with their proposals "a plan of action" for manufacturing the transmitters which was to "demonstrate [the offeror's] understanding" of the transmitters. The RFP further provided that award would be made on the basis of the lowest priced technically acceptable offer.

The Navy received 11 proposals by the September 4, 1991, closing date. Subsequently, the Navy determined that seven of the initial proposals, including MSI's, should be excluded from the competitive range as technically unacceptable and so advised MSI by letter dated September 20. The Navy determined that MSI's proposal was unacceptable because the proposal failed to demonstrate adequate understanding of RFP requirements in several technical areas including frequency tolerance, incident power, and amplitude modulation. The Navy conducted discussions with the four competitive range firms and, after receiving their best and final offers, made an award to Loral Conic on September 26. MSI filed this protest with our Office on September 30.

The evaluation of technical proposals and the resulting determination of whether a proposal is within the competitive range is primarily a matter of the contracting agency's discretion which we will not question unless the determination is shown to be without a reasonable basis or is inconsistent with the RFP's evaluation criteria. Ronnoc, Inc., B-243729, Aug. 19, 1991, 91-2 CPD ¶ 163. A protester's mere disagreement with the agency does not in itself render the evaluation unreasonable. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115. Here, we conclude that the Navy evaluated MSI's proposal in accordance with the stated evaluation criteria and that the decision to exclude MSI's proposal was reasonable.

#### FREQUENCY TOLERANCE

The technical drawing incorporated in the RFP provided that the tolerance of the transmitter output frequency was to be in accord with IRIG-86, which stipulates a general requirement for frequency tolerance of  $\pm 0.002$  percent after 5 seconds of transmitter activation. The drawing also provided

an additional requirement that the frequency tolerance is to be within  $\pm 0.005$  percent of the assigned frequency "in not greater than 150 milliseconds of control input enable at any temperature between 0° c and 71° c." The Navy determined that MSI's proposal did not satisfy the .002 percent frequency tolerance requirement.

As MSI concedes in its protest comments, MSI's proposed output frequency satisfies only the initial .005 percent tolerance requirement and does not meet the overall IRIG requirement of  $\pm 0.002$  percent after 5 seconds of transmitter activation. MSI argues that its proposal should be considered compliant because the RFP's technical drawing does not specify the  $\pm 0.002$  percent frequency tolerance requirement after 5 seconds and therefore supersedes the IRIG requirement.<sup>1</sup>

We do not agree. The provisions of the drawing and IRIG-86 obviously can be read together and are not inconsistent with each other. They simply provide for a frequency tolerance of  $\pm 0.002$  percent after 5 seconds of transmitter activation and a special frequency tolerance of  $\pm 0.005$  percent within 150 milliseconds of transmitter activation. Since both provisions are applicable, and since MSI concedes that its proposal did not conform to the overall frequency tolerance requirement called for by the RFP, the Navy's conclusion that MSI's proposal was nonconforming was not erroneous.

#### INCIDENT POWER AND AMPLITUDE MODULATION

Concerning incident power, another critical requirement, the Navy concluded that MSI's proposal did not "directly address" compliance with the technical requirement concerning power expressed as a voltage standing wave ratio (VSWR) at 50 Ohms nominal. MSI raises an untimely objection that the RFP is defective because "VSWR" is not a proper method of expressing the intended technical requirement. In any event, MSI first provided a technical discussion of how its proposal satisfied this requirement only in its December 6, 1991, response to the Navy's bid protest report. MSI alleges that this response provides the Navy with MSI's "theoretical concepts that show how the MSI proposal was compliant" with this requirement. Similarly, with regard to amplitude modulation, the Navy found that MSI's proposal in this area was defective, for example, in


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<sup>1</sup>To the extent that MSI is also asserting that the drawing and IRIG-86 are in "clear" conflict, to be timely, MSI was required to file this protest of an alleged patent RFP defect prior to the closing time set for receipt of initial proposals, but MSI failed to do so. See 4 C.F.R. § 21.2(a)(1) (1991), as amended by 56 Fed. Reg. 3759 (1991).

showing how MSI "would comply with the amplitude modulation requirement under normal operating conditions" in which there is a "normally occurring spectrum resulting from frequency modulation" which needs to be separated from amplitude modulation. In reply, MSI again attempts to first explain a theoretical basis for its approach in its comments on the Navy's bid protest report. However, an offeror is responsible for demonstrating affirmatively the merits of its proposal and runs the risk of rejection if it fails to do so. Vista Videocassette Servs., Inc., B-230699, July 15, 1988, 88-2 CPD ¶ 55. MSI's subsequent amplifications do not provide a basis to conclude that the Navy improperly evaluated the material which MSI actually submitted in its proposal.

The RFP specifically requested offerors to demonstrate understanding of the transmitters and to fully address and satisfy all technical requirements. MSI's proposal failed to demonstrate this understanding in at least two technical areas of the RFP and evidenced non-compliance with the frequency tolerance requirement as established by IRIG-86. Consequently, the Navy properly excluded MSI's proposal from the competitive range as technically unacceptable because the Navy reasonably determined that the proposal could be made acceptable only if major revisions were made. TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37.

The protest is denied.

  
for James F. Hinchman  
General Counsel